24/10/07

SS

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (S) No. 6049/2007

PETITIONERS Dr. Subodh Kumar Gondal,
Son of Shri Narendra Prakash Gondal,
Aged 59 years 9 months,
Joint Director,
Department of Veterinary Services and Animal Husbandry,
Government of Chhattisgarh, Raipur.

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through Secretary,
Department of Veterinary Services and Animal Husbandry, Mantralaya, D.K.S. Bhawan, Raipur, Chhattisgarh.
2. Director,
Veterinary Services and Animal Husbandary Raipur, Chhattisgarh

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri Anupam Dubey, Counsel for the petitioner.

Shri Ajay Dwivedi, Panel Lawyer for the State on advance copy.

ORAL ORDER
(23.10.2007)

SUNIL KUMAR SINHA, J

Heard.

The petitioner, who is working on the post of Joint Director, Department of Veterinary Services and Animal Husbandry, has prayed for issuance of a writ of certiorari for quashing of the charge sheet issued on 4.7.2007 (Annexure P/1).

Learned counsel for the petitioner submits that the petitioner is at the verge of retirement, as he is to retire in the month of November 2007 and initiation of departmental enquiry at the verge of retirement is unjustified. He raises the factual dispute that the contents of the charge sheet are not true, as false allegations have been made against him. However, he submits that the petitioner has filed the reply of the aforesaid charge sheet issued against him.

I have gone through the contents of the Writ Petition as also the contents of the charge sheet.

56

So far as interference by a Writ Court by issuance of a writ of certiorari in the matter of quashing of the charge sheet is concerned, the scope is very limited. Unless the charge sheet is shown to be issued against any statutory rules or the Act or that the same is ex-facie malafide or it suffers with a defect of jurisdiction etc, the same cannot be quashed by a Writ Court at the preliminary stage of its issuance. The grounds raised by the petitioner pertaining to factual aspects are the grounds to be tested during the course of enquiry and the finding has to be recorded by the Enquiry Officer. The factual aspects of the charge sheet are not gone into by the Writ Court in a petition filed for quashing of the charge sheet on the said ground.

Learned counsel for the petitioner could not point out any such ground, on which, the charge sheet issued against the petitioner can be quashed at its initial stage. He only presses that the petitioner is to retire in the month of November 2007, therefore, the enquiry should not have been initiated against him, but he could not point out any law in this regard that in case of such proposed retirement, departmental enquiry/enquiries cannot be initiated against an employee.

I do not find any reason to interfere with the charge sheet at this preliminary stage of its issuance.

The petition has no merit and the same is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

Shyna